

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DISABLED PATRIOTS OF AMERICA, INC., &
MARCUS INGRAM

Plaintiffs,

v.

ORDER
07-CV-284S

NIAGARA GROUP HOTELS, LLC,

Defendant.

1. On December 2, 2008, Counsel for Defendant, Philip A. Milch, Esq., filed a Motion to Withdraw as Attorney of Record. Since the inception of the litigation, Mr. Milch stated that he has had difficulties contacting his client, and recently, there has been no contact at all despite his persistence. Additionally, Mr. Milch noted that sanctions have been awarded to Plaintiff as a result of Defendant's failure to cooperate with discovery and further, that Defendant is presently in arrears with respect to its financial obligations owed to Mr. Milch. As a result, this Court scheduled a status conference for January 12, 2009 to address the motion.

2. At the status conference, Mr. Milch informed the Court that his client has still not contacted him. Because Defendant is a corporation and cannot represent itself, this Court issued an Order to Show Cause as to why Counsel's motion should not be granted. The Show Cause Hearing was scheduled for February 24, 2009. Further, the Order also directed Defendant to retain counsel within 30 days of the Order to Show Cause and instructed a representative of the Defendant corporation to appear on February 24, 2009.

A copy of the Order was mailed to Defendant at the address listed below.

3. On February 24, 2009, Mr. Milch appeared, as did co-counsel for Plaintiff, Jonathan E. Staehr, Esq. However, a representative did not appear for Defendant corporation as instructed. Further, to date, no attorney has filed a notice of appearance on behalf of Defendant.

4. At the Show Cause Hearing, this Court granted Defense Counsel's Motion to Withdraw. This Court also noted that Plaintiff filed a Motion for Summary Judgment prior to the Defense Counsel's Motion to Withdraw. The motion is fully briefed pursuant to a scheduling order from this Court. However, at the Show Cause Hearing, this Court noted that the motion is not in compliance with Local Rule 56.1. Specifically, both parties did not submit a statement of uncontested facts in connection with the motion. As a result, this Court stated that Plaintiff must perfect its motion, and Defendant must perfect its response, by submitting their respective statements of uncontested facts. This Court granted the parties an additional 10 days to submit their statements of uncontested facts. This Court also stated that if Defendant needs an extension of time, this Court is inclined to grant the request should one be made. Although a copy of this Order will be sent to Defendant corporation, Mr. Milch was also instructed to inform Defendant of the Court's Order.

5. This Court also scheduled another status conference for April 8, 2009.

IT IS HEREBY ORDERED, Defendant shall retain counsel to appear on its behalf in this action because a corporation may only appear in federal court through a licensed attorney.

FURTHER, that Plaintiff and Defendant, through counsel, shall submit their statements of uncontested facts by March 6, 2009.

FURTHER, that Defendant is WARNED that failure to perfect its response to Plaintiff's Motion for Summary Judgment could result in the motion being granted as unopposed.

FURTHER, that Plaintiffs and Defendant shall appear before this Court on Tuesday, April 8, 2009 at 9:00 a.m. in Part IV, United States Courthouse, 68 Court Street, Buffalo, New York, for a status conference.

FURTHER, that the Clerk of the Court is directed to serve a copy of this Order upon Defendant at the following address:

Niagara Group Hotels, LLC
7001 Buffalo Avenue
Niagara Falls, NY 14304

SO ORDERED.

Dated: February 26, 2009
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge